

### **REMARKS**

Applicants provisionally elect Invention I, claims 1-12 and 21-25 which are drawn to a composition, classified in class 424, subclass 489. Applicants provisionally traverse the restriction requirement and request rejoinder of Inventions I and II. Applicants respectfully disagree with the Examiner's assertion that the process of Invention II can be practiced with another product. Specifically the Examiner states "In the instant case the process as claimed can be practiced with a materially different product such as a mechanical device without a drug." The Applicants in Claim 1 directed the invention to a medical device having a coating for the site specific delivery of a drug and in Claim 13 provided a vascular stent, which is a medical device, with a coating containing the drug of Claim 1. It is accepted in the art that it is the implantation of a medical device which may result in damage to the lumen wall which leads to inflammation and restenosis. Without the drug coating, the medical device cannot treat the claimed condition. The process cannot be performed without the drug. Due to the unique properties of the drug, the device, as claimed, would not have the claimed properties without the drug. Therefore applicants respectfully request rejoinder of Inventions I and II.

Due to the Applicants provisional election of Invention I, the Examiner has requested election of a single disclosed species in Claim 5. Applicants provisionally elect stents with traverse. Any of the disclosed devices in Claim 5 may cause vascular damage when inserted into the lumen of an artery and thus induce intimal hyperplasia or restenosis. A coating containing the disclosed peroxisome proliferators-activated receptor gamma (PPAR $\gamma$ ) ligand can inhibit the undesirable consequences of restenosis resulting from the implantation of any of said devices. Therefore Applicants respectfully request rejoinder of the species in Claim 5.

Due to the Applicants provisional election of Invention I, the Examiner has requested election of a single disclosed species in Claim 2. Applicants provisionally elect rosiglitazone with traverse. It is recognized in the art that thiazolidinediones generally share the same overall mechanism of action. Additionally, the instant

application has enabled two members of the thiazolidinedione genus, rosiglitazone and ciglitazone. Applicants are not required to enable all species of a genus in order to claim the genus. By enabling two species Applicants believe they have the statutory right to all members of the genus. Therefore Applicants respectfully request rejoinder of the species in Claim 2.

In summary, Applicants provisionally elect Invention I, species rosiglitazone in Claim 2 and species stent in Claim 5. These elections are made with traverse. In response to these provisional elections, Applicants have amended claims 1, 2, 5, 7, 11 and 21 and canceled claims 3, 4, 8, 10, 12-20 and 26 without prejudice to requesting rejoinder later in prosecution or filing these claims in continuation and/or divisional applications.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application. The Director is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3207 associated with this response.

Respectfully submitted,

PRESTON GATES & ELLIS, LLP

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By: Michelle S. Glasky  
Michelle S. Glasky, Ph.D.  
Agent for Applicant  
Registration No. 54,124

Contact information below for inquiries regarding the above submission:

**Customer No.: 28,390**  
Louis C. Cullman  
Preston Gates Ellis LLP  
(949) 253-0900 Telephone  
(949) 253-0902 Fax

Enclosures: Change of Correspondence Address